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SUBJECT: PROPOSAL FOR LABOR JUSTICE ACTIVITIES IN THE
DOMINICAN REPUBLIC

REF: STATE 26123

[1](#)1. The following is Embassy's response to request for
project proposals.

(Begin Text)

Proposal for Labor Justice Activities in the Dominican
Republic

[1](#)A. Characteristics of Labor Justice in the Dominican
Republic: description and justification for proposed
activities

A study of case load in labor jurisdictions from 2000
documented that the majority of cases are claims of wrongful
separation from employment (86 percent), followed by salary
issues (8 percent). The average case resolution time was 15.3
months in courts of first instance, 16.4 months in appeals
court. Major causes of delay are in the trial phase (average
8.6 months between final case presentation and emission of
the sentence) and initial case preparation (average 6.3
months). Only 4.5 percent of cases were conciliated once
reaching the court system (others may have been conciliated
at the level of the Labor Ministry, but no statistics are
available to document the volume), with 83 percent resolved
by judicial decision. The study reports significant inequity
in access to justice, favoring the rich over the poor, and
grossly inadequate number of labor jurisdiction public
defenders, and generally negative impression of the efficacy
of the system from the perspective of the user and the
average citizen who has never had contact with the labor
justice system. Generally workers are not aware of their
rights under the law, or how to register a claim.
Significant levels of corruption and influence peddling are
reported, particularly involving collusion between private
lawyers, prosecutors, and judges to lower claims and [buy](#)8
cases from workers who can,t afford to wait months for a
final settlement. The labor law introduces [v](#)ocales8
(spokespersons) who are minimally paid lay representatives
(one each for the plaintiff and the defendant) who currently
receive no training. They are appointed annually by labor and
employer representatives in each jurisdiction with the
intended role of conciliators but in reality do not play this
role.

[1](#)B. Results Expected under the CAFTA/DR Labor Justice Project:

Year One:

[1](#)1. A communications/information campaign to increase

worker knowledge of rights and procedures for redress of grievances: distribution of popular legal education materials in the workplace; mass media campaigns on rights and procedures under the labor code; creation of an electronic requests and response, system for citizens to get information/advice on specific questions.

¶2. Document labor case statistics, in the court system and at the level of the Ministry of Labor: assure the publication of court level and national level statistics on case load, resolution times, percent of cases conciliated, percent of salary decrease in final resolution for litigated and conciliated cases, and pre-judicial, case load (cases resolved before entering the court system). An analysis of labor court procedures will also be completed to identify procedural reforms that can be modified through administrative decree to increase efficiency and access.

¶3. Train 100 percent of labor justice personnel on the content and application of the Dominican labor law and international labor law standards. (70 judges, 68 labor specific public defenders, 40 prosecutors, 220 vocales and 172 investigators will be reached)

¶4. Train 200 judicial personal in conciliation authority, procedures, and techniques (emphasizing vocales, investigators, and judges).

¶5. Train all labor jurisdiction public defenders (68 total) in defense procedures, techniques, and strategies.

Year Two:

¶6. Support the recruitment, training, and supervision of career prosecutors, recruited using merit-based, competitive criteria for the labor jurisdiction (rather than politically appointed prosecutors as is now the case.)

¶7. Assure an increase in the percentage of labor cases resolved through conciliation rather than full trial procedures

¶8. Train an additional 200 judicial personal in conciliation authority, procedures, and techniques (emphasizing vocales, investigators, and judges).

¶9. Assure an increase in the number of labor jurisdiction public defenders, expanding access by the indigent and micro-entrepreneurs.

¶10. Procedural/administrative reform: in a two-year time frame, USAID will support the drafting, consensus building, passage and implementation of an administrative order (approved by the Supreme Court president) to clarify, regularize, and assure the efficacy of the vocal, function, which currently does not operate or creates obstacles for efficient labor case resolution. Labor law reform is necessary, but would require a longer-term commitment to develop consensus on reform elements, passage, and support for implementation. Elements of an eventual reform should include greater emphasis on conciliation, revision of the vocal, function, procedural reforms to improve flexibility, rapidity, effective case resolution, and to decrease discretion.

¶C. Link with US policy objectives and current development assistance program

The White Paper, from April 2005 developed by regional labor ministries established modernization of the labor justice system and strengthened capacity to enforce laws, conduct inspections, and resolve disputes as the top priorities for DR-CAFTA countries. The DR-CAFTA agreement identifies increased respect and recognition of local labor laws and international standards and expand capacity, enforcement and compliance in order to protect the region,s

workers.

Activity implementation and achievement of results specified is possible with a limited budget and a short time-frame as these activities are highly complementary to the on-going USAID justice program focused on criminal jurisdiction. Adding similar activities in labor jurisdiction requires a minimal additional investment as relationships are already established with relevant justice sector institutions and NGOs. Similarly, the USG public diplomacy program is already focused on these issues, although on the criminal jurisdiction. This proposal allows for leveraging results in the labor jurisdiction by piggy-backing on the current USG justice strategy.

The Department of Labor Cumple y Gana project has a good track record for its work with the Dominican Labor Ministry. Stakeholders agree that the training provided to labor inspectors has vastly increased their skills and performance, and institution building activities have been successful. We understand that this activity will continue with FY05 ESF funds allocated to USDOL and for this reason, focus in this project on the Ministry of Labor is minimal. It is recommended, however, that DOL consider including the creation of an internal inspection unit in the Ministry of Labor to create whistle blowing and corruption case processing against ministry officials who may be involved in influence peddling and unethical behavior.

D. Estimated Cost to achieve results in (b) above is USD 1.5 million per year. Activities will be implemented through direct grants to the National Judicial School to conduct training activities and through grants to Dominican NGOs and small firms to implement all other activities.

Summary Project Budget:

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|---|-----|
| 1. Training of justice sector officials | |
| USD 500,000 | |
| 2. Legal education campaign and outreach | USD |
| 300,000 | |
| 3. Technical assistance for institutional/procedural reform | |
| USD 200,000 | |
| 4. Legal and policy advocacy | USD |
| 200,000 | |
| 5. Program administration | |
| USD 300,000 | |

E. Degree of Local Buy-In: this proposal has been developed in conjunction with representatives of the Ministry of Labor, including a former minister, a subject-matter specialist, labor judges, the national judicial training school, the Attorney General's Office, the professional association of attorneys, and legal advocacy NGOs. There is consensus among all actors that the actions proposed here are feasible, that they target priority weakness in the labor justice system and that they will significantly improve the access, quality, and protections provided by the system once in place.

(End Text)
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